

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA)
)
)
)
v.) **CASE NO. 2:07-cr-204-MEF**
)
)
KIWANIS MIYO JONES)

ORDER

This cause is before the Court on the Motion to Suppress (Doc. # 19) and the Motion to Suppress (Supplement) (Doc. # 21) filed by Defendant Kiwanis Miyo Jones. The Court has carefully reviewed the Motion to Suppress, the Motion to Suppress (Supplement), the United States' Response to Defendant's Motion to Suppress (Doc. # 27), the transcript of the December 3, 2007 hearing on the Motions to Suppress, the Recommendation of the Magistrate Judge (Doc. # 31), and the "Petitioners Objections to the Magistrate Judge's Report and Recommendation of December 7, 2007 (Doc. # 32). The Court cannot agree with Defendant Kiwanis Miyo Jones' contentions that his rights under the Fourth Amendment to the Constitution were violated, that the evidence against him is due to be suppressed, or that he was denied the right to cross-examine the sole witness at the hearing on his motions to suppress. To the contrary, a careful review of the transcript of that hearing reveals that the Magistrate Judge specifically informed counsel for Defendant Kiwanis Miyo Jones that he would be allowed to cross examine (Doc. # 33 at p. 31, lines 21-23). Moreover, the Magistrate Judge later specifically asked counsel if there was *anything else* he wanted to present and he said that there was not. (Doc. # 33 at p. 41, lines 4-7). Thus, counsel waived

any opportunity to cross examine the witness at the hearing.

For the reasons set forth in this Order and for the reasons articulated in the Recommendation of the Magistrate Judge, the Court ADOPTS the Recommendation of the Magistrate Judge (Doc. # 31) that the Motions to Suppress (Doc. # 19 & Doc. # 21) are due to be DENIED and OVERRULES Defendant's objections (Doc. # 32) to that Recommendation. Accordingly, it is hereby ORDERED that the Motion to Suppress (Doc. # 19) and the Motion to Suppress (Supplement) (Doc. # 21) are DENIED.

Done this the 26th day of December, 2007.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE